

FILING RECEIPT

CORRECTED

UNITED STATES DEPARTMENT OF COMMERCE  
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Washington, D.C. 20431

APPLICATION NUMBER	FILED DATE	SEPARATE UNIT	FIL FEE REC'D	ATTORNEY DOCKET NO.	DRAWGS	TOT CL	IND CL
08/480,908	06/07/95	3304	\$2,530.00 P	12552		97	4

LEWIS ANTEN  
SUITE 411  
16850 VENTURA BOULEVARD  
ENCINO CA 91436

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LAW OFFICES  
PROFESSIONAL CORPORATION

Decal is acknowledged on the nonprovisional Patent Application. It will be considered in its order and you will be notified as to the result of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILED DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on the claim. If an error is noted on the filing receipt, please write to the Application Processing Division's Customer Correction Branch within 10 days of receipt. Please provide a copy of the filing receipt with the changes. Thank You.

Applicant(s)

GARY K. MITCHELSON, VENICE, CA.

## CONTINUING DATA AS CLAIMED BY APPLICANT-

THIS APPN IS A CIP OF 08/396,414 02/27/95  
WHICH IS A CIP OF 06/074,781 06/10/93 PAT. 5,481,437  
WHICH IS A CIP OF 07/698,674 05/10/91  
WHICH IS A DIV. OF 07/205,935 06/13/88 PAT. 5,045,247  
AND A/CIP OF 08/190,131 02/17/95

FOREIGN FILING LICENSE GRANTED 09/19/95

TITLE

THREADED FRUSTO-CONICAL INTERBODY SPINAL FUSION IMPLANTS

PRELIMINARY CLASS 606

~~PLEASE STAMP TO ACKNOWLEDGE RECEIPT OF THE FOLLOWING:~~

In Re Application of: GARY K. MICHELSON, M.D.  
Serial No.: 08/480,908 Group Art Unit: 3764  
Filed: June 7, 1995 Examiner: M. Brown  
For: THREADED FRUSTO-CONICAL INTERBODY SPINAL FUSION  
IMPLANTS

1. Letter of Transmittal (in duplicate)
2. Reply to Office Action
3. Request for Withdrawal of Finality
4. Supplemental IDS and PTO Form 1449
5. Check No. 1057 for \$1,560.00

Dated: March 20, 2000  
Case Ref.: 101.0053-0000  
Express Mail No.: EL399233465US



A. Ferraro/lkr

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Date: 3-27-00

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Washington, D.C. 20231

101.0053-00000  
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09/480,908 06/07/95 NICE FIRST NAMED APPLICANT

SERIAL NUMBER

FILING DATE

G ATTORNEY/DOCKET NO.

LEWIS ANTEN  
SUITE 411  
15830 VENTURA BOULEVARD  
ENCINO CA 91436



BRIEF EXAMINER	
ANT 49764	PAPER NUMBER
DATE MAILED:	
04/24/00	

*Below is a communication from the EXAMINER in charge of this application*

COMMISSIONER OF PATENTS AND TRADEMARKS

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ADVISORY ACTION

Date: 5-1-00

THE PERIOD FOR RESPONSE:

- a)  is extended to run \_\_\_\_\_ or continues to run 7 months from the date of the final rejection
- b)  expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

Appellant's Brief is due in accordance with 37 CFR 1.192(a).

Applicant's response to the final rejection, filed 3/20/00 has been considered with the following effect, but it is not deemed to place the application in condition for allowance.

1.  The proposed amendments to the claim and /or specification will not be entered and the final rejection stands because

- a.  There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
- b.  They raise new issues that would require further consideration and/or search. (See Note).
- c.  They raise the issue of new matter. (See Note).
- d.  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- e.  They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: The limitations pertaining to the thread forming a substantially frusto-conical configuration "along at least a portion of the length of the implant near the trailing end thereof for insertion and it is evenly presented in claim 1.

2.  Newly proposed or amended claims \_\_\_\_\_ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3.  Upon the filing an appeal, the proposed amendment  will be entered  will not be entered and the status of the claims will be as follows:

Claims allowed: \_\_\_\_\_

Claims objected to: \_\_\_\_\_

Claims rejected: 1-9, 11-15 and 28-147

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However,

Applicant's response has overcome the following rejection(s): \_\_\_\_\_

4.  The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because \_\_\_\_\_

5.  The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

The proposed drawing correction  has  has not been approved by the examiner.

Other

Michael A. Brown  
Primary Examiner

Michael A. Brown



AF 23

PATENT  
101.0053-00000  
Express Mail Label No. EL399233465US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary K. Michelson, M.D.

Serial No: 08/480,908

Filed: June 7, 1995

For: THREADED FRUSTO-CONICAL  
INTERBODY SPINAL FUSION  
IMPLANTS

Art Unit: 3764

Examiner: Brown, M.

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Box AF  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

**REQUEST FOR WITHDRAWAL OF FINALITY UNDER 37 C.F.R. § 1.129**

This application was filed prior to June 8, 1995 and claims priority under 35 U.S.C. § 120 to earlier filed application Serial No. 07/205,935 filed June 13, 1988, now U.S. Patent No. 5,015,247. A copy of the official Filing Receipt for the instant application is enclosed as "Exhibit A" hereto for the Examiner's convenience. Taking into account the references made to earlier filed applications under 35 U.S.C. § 120, this application has been pending for more than two years as of June 8, 1995, has not been abandoned, and no appeal brief has been filed.

Accordingly, pursuant to 37 C.F.R. § 1.129(a), Applicant is entitled to have a first submission entered and considered on the merits after final rejection. Applicant respectfully requests that the finality of the Office Action dated October 1, 1999 be withdrawn and that the amendment submitted herewith be entered and considered on the merits. The fee set forth under 37 C.F.R. § 1.17(r) is enclosed.

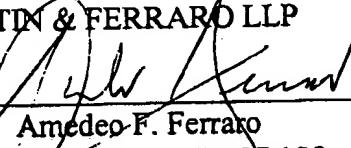
If there are any fees due in connection with the filing of this response, please charge our Deposit Account Number 50-1066. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for in the papers accompanying this response, such an extension is requested and the fee should also be charged to our Deposit Account.

Should you have any further questions, please contact the undersigned directly.

Respectfully submitted,

MARTIN & FERRARO LLP

By:

  
Amedeo F. Ferraro  
Registration No. 37,129  
Attorney for Applicant(s)

Date: March 20, 2000

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